UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,772	07/17/2003	Wayne Patrick O'Brien	064749.0152	1688

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER
WEI, ZHENG

ART UNIT	PAPER NUMBER
2192	

NOTIFICATION DATE	DELIVERY MODE
04/03/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
glenda.orrantia@bakerbotts.com

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/621,772	O'BRIEN, WAYNE PATRICK
	Examiner	Art Unit
	ZHENG WEI	2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>30 December 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>1-34</u>.

    Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). <u>03/10/2009</u>

13. ☐ Other: _____.

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192

U.S. Patent and Trademark Office
PTOL-303 (Rev. 08-06)   **Advisory Action Before the Filing of an Appeal Brief**   Part of Paper No. 20090316

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant's arguments filed on 12/30/2008, in particular on pages 16-18, have been fully considered but they are not persuasive. For example:

At the REMARKS page 16. last paragraph to page 17 first paragraph, Applicants submit that "The Garloff generation rules for generating source code, however, fail to disclose, teach, or suggest 'a plurality of military theory domain rules setting an objective to destroy an enemy's combat forces ' of Claim 1. In fact according to Claim 1, code is generated for procedure associated with the military theory domain rules. So the military theory domain rules themselves are not rules for generating code. Moreover, there is no teaching, suggestion, or motivation to modify the generation rules to disclose, teach, or suggest ' a plurality of military theory domain rules setting an objective to destroy an enemy's combat forces' of Claim 1.". However, Examiner respectfully disagrees. Prior art Garloff discloses a procedure (see for example, ABSTRACT, "The inheritance engine obtains objects from Design Knowledge Bases, Specification Knowledge Bases and Generation Knowledge Bases for the Generator. The Generator then operates on the objects to produce source code") to generate code (source code) for designing a computer program (see for example, Fig.1C, "Source code components include...Make files; Link response files; other build-related files"). Thus, the generated code including the Makefile and other build-related files do correspond to the procedure associating with the knowledge bases which are used to design or build a computer program as the Applicants recited in claim 1. Garloff discloses a method for generating source code from user-entered specification (as showed in the title) and rules (knowledge bases), but does not explicitly disclose the specification and rules including a plurality of military theory domain rules setting an objective to destroy an enemy's combat forces. However, it should be noted that the claim language merely called for the rules using for the purpose of destroy an enemy's combat forces, but did not specify what the military rules are and how they relate to destroy an enemy's combat forces. Therefore, as Garloff's generation process generating source code according to the inputs of knowledge bases (rules), it would be obvious that different types of knowledge bases (rules) would generate different types of program code including using the military rules, as one skilled military strategist and/or tactician would know what military rules can be used to destroy an enemy's combat forces.

At the REMARKS page 17, forth paragraph, Applicants submit that Figure 3 of Garloff discloses changing a list of knowledge bases, but fails to disclose, teach, or suggest customizing a rule, much less "customizing the one or more rule engagement" of Claim 1. However, Examiner respectfully disagrees. Garloff discloses the Knowledge Bases contain specification/rules (see for example, Fig.1B) and further discloses customizing/changing the knowledge bases (see for example, Fig.3, "Change a KBASE"; also see the related text description col.9, lines 39-47, "The Private Knowledge Base is used for all specification additions and changes..."Checked Out"..."Checks In"; also see Fig.4, object editor and related text). Therefore, Garloff does provide a means for customizing rules in knowledge bases.

At the REMARKS page 18, second paragraph, Applicants submit that Garloff merely discloses changing a list of knowledge bases and changing the class of an object according to its target environment, but fails to disclose, teach or suggest "accessing a plurality of legislated laws associated with military theory" or even "identifying military theory rules required by the laws as a plurality of domain rules of the military theory, each domain rule being invariant" of Claim 1 (not Claim 21). However, Examiner's position is that as Garloff disclosed in Fig.3 step of "display list of KBASES" and step of Change a KBASE to illustrate the facts of displaying/selecting/changing the Knowledge Bases, the plurality of Knowledge Bases of specification/rules (military theory/laws) have to be accessed and identified to generate computer program (see for example, col.3, lines 45-48, "The Generation Knowledge Base contains the rules and direction for generating source code from the specification"). It is also would have been obvious to one having ordinary skill in the art that the military theory/laws can be reasonable interpreted as a case of using of Garloff's invention while the user entered specification/rules are related to military as addressed above.